

Remarks

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 1-18 are pending in the application, with claims 1, 11, and 18 being the independent claims. Claims 10-12, 14, 15, 17, and 18 are amended in order to address the Examiner's objections regarding the informalities indicated on page 3 of the Office Action. Claim 15 is further amended to clarify a reference to the recited compensation device. These changes introduce no new matter, and their entry is respectfully requested.

Based on the above Amendment and the following Remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

Objection to the Drawings

As stated above, the Examiner's objection to Figure 5 is addressed by the accompanying corrected drawing sheet.

Rejections under 35 U.S.C. § 102

The Examiner has rejected claim 1 as being anticipated by US Patent No. 6,837,122 ("Herrmann"). In particular, the Examiner argues that *Herrmann* discloses the feature of a compensation device for compensating for environmental influences, the compensation device comprising a second microwave resonator which is shielded from the product area in respect of microwave radiation. The Examiner argues that the compensating device is represented in

Herrmann by microwave resonator 18 of Figure 1. However, in column 4, lines 35-38 of *Herrmann*, it is stated that microwave resonator 18 is used to measure the moisture of the product. Because resonator 18 measures an aspect of the product, the associated microwave radiation must necessarily interact with the product. Given that resonator 18 serves to make a measurement of the product, this component cannot be shielded from the product area in respect of microwave radiation, as required by claim 1 of the present invention. Moreover, there is nothing in *Herrmann* that indicates that microwave resonator 18 serves as a compensation device for compensating for environmental influences. While resonator 18 measures moisture, which is arguably an environmental influence, there is nothing in *Herrmann* that suggests that resonator 18 in any way compensates for environmental influences. *Herrmann* therefore fails to anticipate all features of claim 1.

The Examiner also rejects claims 3, 4, 7, 9, and 10 as being anticipated by *Herrmann*. The rejection of these claims appears to be premised on the Examiner's contention that the features of claim 1 are disclosed in *Herrmann*. As discussed above, however, *Herrmann* fails to disclose all features of claim 1. Because all features of claim 1 are necessarily included in claims depending from claim 1, *Herrmann* likewise fails to disclose all features of each of claims 3, 4, 7, 9, and 10. For at least this reason, therefore, *Herrmann* fails to anticipate claims 3, 4, 7, 9, and 10.

The Examiner also rejects claim 11, arguing that this claim is anticipated by *Herrmann*. Claim 11 is not anticipated by *Herrmann*, for the same reasons as discussed above with respect to claim 1. In particular, *Herrmann* fails to disclose a compensating device comprising a second

microwave resonator, where the compensating device compensates for environmental influences on the first microwave resonator. Therefore, claim 11 is not anticipated by *Herrmann*.

The Examiner also rejects claims 12-17, again arguing that these claims are each anticipated by *Herrmann*. Each of these claims depends from claim 11, and therefore each includes all features of claim 11. Because *Herrmann* fails to disclose all features of claim 11, *Herrmann* also fails to disclose all features of dependent claims 12-17. For at least this reason, claims 12-17 are not anticipated by *Herrmann*.

With respect to claim 18, the Examiner argues that this claim is also anticipated by *Herrmann*. Claim 18 includes the feature of a compensation device comprising a second resonator. As argued above with respect to claim 1, *Herrmann* fails to disclose a compensation device. Therefore, *Herrmann* fails to anticipate claim 18.

Rejections under 35 U.S.C. § 103

The Examiner rejects claims 2, 5, 6, and 8 as being rendered obvious over a combination of *Herrmann* and other cited references. It appears that the Examiner's rejection of these claims is premised on the Examiner's earlier rejection of claim 1 as being anticipated by *Herrmann*. As argued above, *Herrmann* fails to disclose all features of claim 1. Dependent claims 2, 5, 6, and 8 all depend on claim 1, and therefore include all features of claim 1. These claims necessarily include the feature of a compensation device for compensating for environmental influences, the compensation device comprising a second microwave resonator which is shielded from the product

area in respect of microwave radiation. This feature is not disclosed in *Herrmann*, or in any of the other cited references. For at least this reason, none of claims 2, 5, 6, and 8 are rendered obvious by any reasonable combination of *Herrmann* and the other cited references.

Other Matters

The Examiner states that the Information Disclosure Statement filed on December 3, 2004 fails to include a concise explanation of the relevance of the disclosed references. It is respectfully submitted that the statement of relevance of these documents is fulfilled by the UK Search Report that accompanied the December 3, 2004 Information Disclosure Statement (see MPEP § 609 A(3)). Accordingly, the Examiner is required to consider and make of record these EP patent documents. We note that contrary to what is stated at page 2, paragraph 1 of the Action, the Examiner did initial each of the EP document on the PTO/SB/08a form returned with the May 6, 2005 Action. Nevertheless, it would be appreciated that Examiner confirms that the references have been considered.

Applicants: Steffen PETERS *et al.*
Appl. No. 10/810,890

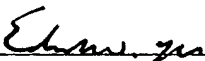
Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is hereby invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment is respectfully requested.

Respectfully submitted,

Date: August 8, 2005



Edward W. Yee
Attorney for Applicants
Registration No. 47,294
VENABLE LLP
P.O. Box 34385
Washington, D.C. 20043-9998
Telephone: (202) 344-4000
Telefax: (202) 344-8300

DC2/ 667947